EXHIBIT 13

BLUEBOX AGREEMENT

This Agreement is made on ~~Feb 11~~, 2009

between:

(1)   **Philips Electronics Nederland B.V.**, a company duly incorporated under the laws of the Netherlands, acting through its Technology Incubator Venture 3D Solutions, with offices at High tech Campus 27, 5656 AE, Eindhoven, the Netherlands (hereafter referred to as "Philips");

and

(2)   **3D Fusion**, a company duly incorporated under the laws of United States, with office at 110 Wall street 7th Floor New York, NY 10005 (hereafter referred to as "Company"); (each, a "Party", and collectively, the "Parties")

(3)

(each, a "Party", and collectively, the "Parties")

Whereas:

A.)   Philips has developed certain content conversion tools capable of running multiple 3D content conversion applications that enable, among others, 2D to 3D conversion of video content;

B.)   Company desires to use such content conversion tools to enable its video content to be displayed inter alia, in a 3D format suitable for display on WOWvx 2D-plus-Depth-compliant 3D displays;

C.)   Philips is willing to provide to Company, as a paid service, access to such tools by means of the BlueBox (as defined below);

D.)   Philips and Company agree on certain terms and conditions governing the provision of such service.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties hereby agree as follows:

1.   **Interpretation**
      As used in this Agreement, the following terms shall have the meanings set forth below:

      "**Affiliate**" shall mean with respect to Philips, Koninklijke Philips Electronics N.V. (the ultimate parent company of Philips) and any corporation, company, or other legal entity in which Koninklijke Philips Electronics N.V. owns or controls, directly or indirectly, more than 50% (fifty percent) of the shares entitled to vote for the election of directors or other persons performing similar functions, and with respect to Company, any corporation, company, or other legal entity in which Company owns or controls, directly or indirectly, more than 50% (fifty percent) of the shares entitled to vote for the election of directors or other persons performing similar functions, but any such legal entity shall be considered to be an Affiliate of a Party only for so long as such ownership or control exists.

      "**Agreement**" shall mean this BlueBox agreement, including all Exhibits hereto which form an integral part hereof.

      "**BlueBox**" shall mean the BlueBox hardware specified in Exhibit A and the BlueBox Server Software, forming in combination with the BlueBox Client Software a client/server mixed/software platform for 3D content creation services.
      "**BlueBox Server Software**" shall mean the software contained in the BlueBox as further specified in Exhibit A.

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"BlueBox Client Software" shall mean the software provided by Philips with the BlueBox as further specified in Exhibit A and for which Company must, as a condition for use, accept the applicable end-user license agreement accompanying the BlueBox Client Software.

"BlueBox Software" shall mean both or any of BlueBox Server Software and BlueBox Client Software

"BlueBox Functionality" shall mean the functionalities deliverable by the combination of the BlueBox Server Software and the BlueBox Client Software as further specified in Exhibit B.

"Change of Control" shall mean with respect to a Party, the occurrence of any of the following events: (a) any consolidation or merger of such Party with or into any other entity in which the holders of such Party's outstanding shares immediately before such consolidation or merger do not, but immediately after such consolidation or merger, do retain stock representing a majority of the voting power of the surviving entity or stock representing a majority of the voting power of an entity that wholly owns, directly or indirectly, the surviving entity; (b) the sale, transfer or assignment of securities of such Party representing a majority of the voting power of all of such Party's outstanding voting securities to an acquiring Party or group; (c) the sale of all or substantially all of such Party's assets; or (d) the transfer, directly or indirectly, of 50% (fifty percent) or more of the such Party's outstanding shares entitled to vote for the election of directors or other persons performing similar functions, or by equivalent change in ownership or control of such Party if a partnership or other non-corporate form.

"Documentation" shall mean all documentation relating to the BlueBox and BlueBox Client Software, including but not limited to manuals, instructions, Specifications, user's guides, technical, training and programmer guides Philips, or any of its Affiliates, provides with the BlueBox.

"Effective Date" shall mean the date of this Agreement first written above.

"Intellectual Property Rights" or "IPR" shall mean all present and future industrial and intellectual property rights, including, but not limited to, patents, utility models, trade and service marks, trade names, mask work rights, rights in domain names, right in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how, in all cases whether or not registered or registrable and including all registrations and applications for registration of any of these and rights to apply for the same, as well as any renewals, extensions, combinations, divisions, continuations or reissues thereof, rights to receive equitable remuneration in respect of any of these and all rights and forms of protection of a similar nature or having equivalent or similar affect to any of these anywhere in the world.

"Open Source License Terms" shall mean terms in any license that require as a condition of use, modification and/or distribution of a work:
(a)   the making available of source code or other materials preferred for modification, or
(b)   the granting of permission for creating derivative works, or
(c)   the reproduction of certain notices or license terms in derivative works or accompanying documentation, or
(e)   the granting of a royalty-free license to any party under Intellectual Property Rights, regarding the work and/or any work that contains, is combined with, requires or otherwise is based on the work.

"Open Source Software" shall mean any software that is licensed under Open Source License Terms.

"Specifications" shall mean the functional specifications and performance requirements for the BlueBox server Software, as specified in the Documentation.

"Term" shall mean the effective period of the Agreement as further defined in clause 9.1.

2.   BlueBox Hardware and Software Delivery, Installation requirements

2.1   BlueBox Delivery
Subject to the terms and conditions of this Agreement, Philips hereby agrees to make available to Company the BlueBox (including the BlueBox Server Software), and shall deliver to Company a CD-Rom containing the BlueBox Client Software. The BlueBox is not sold, and ownership thereof remains with Philips at all times in accordance with Clause 7 hereof. Company is allowed to access the BlueBox solely through its network connection as described in Exhibit A. The BlueBox shall be shipped to Company at such time as mutually agreed between Philips and Company. Company may install the BlueBox Client Software on an unlimited number of workstations at its premises, subject to Company accepting the end-user license agreement accompanying the BlueBox Client Software for each workstation.

2.2   Installation requirements
In order for the BlueBox to function, it must be connected to a broadband internet connection in such a way that is has a direct link to the WOWvx web server at any time the BlueBox is in operation. The connectivity requirements of the BlueBox are as specified in Exhibit A. Company shall ensure that these connectivity requirements are met. This connection to the WOWvx web server shall be used for customer registration, account management, maintenance and monitoring purposes (including monitoring of usage for billing purposes). No video content shall be transmitted to the WOWvx web server via the internet connection.

3.   Access to the BlueBox

3.1   Limited Right
Subject to Company's continuing compliance with the terms and conditions of this Agreement, Philips hereby grants to Company, and Company accepts from Philips, a fee-bearing, non-exclusive, non-transferable, non-assignable, limited license, without the right to sublicense, to access and use the BlueBox and the BlueBox Server Software, but only by means of the BlueBox Client Software installed on one or more of Company's computers, for the limited purpose of utilising the BlueBox Functionalities specified in Exhibit B.

3.2   Availability of BlueBox Functionalities
The list of BlueBox Functionalities available to Company as specified in Exhibit B may be altered by Philips from time to time by giving notice to Company, provided that, in the event Philips removes a BlueBox Functionality from the list of available BlueBox Functionalities, Philips shall provide Company with 90 days of prior notification thereof.

3.3   Need for Content Licenses
The license granted herein provides no rights with respect to any musical compositions, sound recordings, video recordings, game contents or other audio and/or video materials ("Content") that may be reproduced, converted, encoded, distributed, transmitted, performed, or otherwise used in connection with the BlueBox or the BlueBox Client Software. Company alone is responsible for ensuring that any Content is properly used in accordance with applicable laws and the rights of any third party with respect to such Content. Should Philips notice that the BlueBox and/or the BlueBox client Software is used by Company to infringe IPR's relating to Content, Philips may terminate this Agreement with immediate effect according to section 9.2.

3.4   Patent license
The license granted in section 3.1 includes a license under any patent that is owned or controlled by Philips or its Affiliates provided that (i) Philips or its Affiliate, as the case may be, has a right to grant such license without requiring the consent of or being obligated to pay any financial compensation to any third party (ii) such license excludes any combination, integration or implementation of the BlueBox, the BlueBox Client software or any Content created using the BlueBox with or in any product, service or technology, if the license required for such combination, integration or implementation would not be required but for such combination, integration or implementation; and (iii) such license excludes any

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license that is available in or as part of a licensing program, including without limitation *any licensing program* in relation to any standard other than a standard standardizing the 2D+depth format (a standard being any proprietary or open technical specification promulgated for the purpose of widespread adoption) conducted by or on behalf of Koninklijke Philips Electronics N.V., where, with respect to licensing programs that do not relate to a standard, such exclusion is subject to notification of Koninklijke Philips Electronics N.V. to Company.

4   Restrictions

4.1   Restrictions
Except as expressly permitted under this Agreement or by mandatory applicable law in spite of this provision, and notwithstanding any restrictions applicable to the BlueBox Client Software, Company agrees not to, and agrees not to permit any third party to:

(a)   open, disassemble, reverse engineer, or otherwise gain access to the hardware or software contained in the BlueBox;

(b)   gain access to the BlueBox Functionalities other than through the BlueBox Client Software;

(c)   use the BlueBox Functionalities for any other purpose other than the purposes outlined herein;

(d)   copy, reproduce or distribute the BlueBox (including any software contained therein) and/or any Documentation;

(e)   assign, sublicense, lease, rent, loan, transfer, disclose, or otherwise make available the BlueBox or any Documentation;

(f)   modify, adapt, alter, translate, or create modifications from any portion of the BlueBox or create derivative works from any portion of the Documentation;

(g)   reverse assemble, decompile, disassemble or otherwise attempt to derive source code or the algorithmic nature of the BlueBox Server Software;

(h)   remove or circumvent the protection of the BlueBox or the BlueBox Server Software.

4.2   No other rights or licenses
Other than the limited license granted to Company under section 3.0 herein, no other rights or licenses are granted, or implied by estoppel or otherwise, under any Intellectual Property Rights of Philips and/or its Affiliates or any intellectual property residing in the BlueBox, the Documentation or any other Confidential Information furnished by Philips.

4.3   Exclusions
Notwithstanding anything to the contrary herein, this Agreement shall not be construed or interpreted as imposing on Philips and/or its Affiliates or any of its or their third party suppliers any obligation to furnish any manufacturing or technical information except as expressly required under this Agreement.

4.4   Open Source License Terms
The license granted hereunder does not include any right, license, power or authority to subject the BlueBox Software or any other software made available to Company to Open Source License Terms. Company shall not perform any actions with regard to the BlueBox Software or any other software made available to Company in a manner that would require the such software or any derivative work thereof to be licensed under Open License Terms. These actions include but are not limited to:
(i) combining such software or a derivative work thereof with Open Source Software, by means of incorporation or linking or otherwise; or
(ii) using Open Source Software to create a derivative work of such software.

Company shall indemnify Philips, its Affiliates and its third party suppliers against and hold Philips and its Affiliates harmless from any damage or costs arising from or in connection with any violation or breach of the provisions of this clause and Company shall reimburse all costs and expenses incurred by Philips, its Affiliates and its third party suppliers in defending any claim, demand, suit or proceeding arising from or in connection with such violation or breach.

5. **Company's Other Obligations**
Company shall: (i) maintain high standards of professionalism and (ii) refrain from any conduct that may damage the reputation of Philips and its products or services.

6. **Delivery and Support**

6.1 Delivery
Upon Philips' receipt of the delivery and set-up fee as provided under clause 8, Philips will deliver the BlueBox and the BlueBox Client Software to Company in accordance with Incoterms DDU Company's premises.

6.2 Maintenance and Support
Subject to Company's full and timely payment of all fees in connection therewith, maintenance and support will be provided to Company under as specified in Exhibit D, it being acknowledged that Philips will only provide support for the most current version of the BlueBox Software as may be released by Philips from time to time.

7. **Ownership Rights**

7.1 Exclusive ownership
It is acknowledged and agreed by Company that Philips owns or has acquired all rights, title and interest in the BlueBox, the BlueBox Software, the Documentation and other Philips' Confidential Information and all modifications and derivative works of each of the foregoing, and all intellectual property rights therein. The BlueBox is provided on a loan basis only and shall, notwithstanding the fact that it will be connected to Company's computer network, remain the property of Philips at all times.

7.2 Notices
Company shall not remove or alter, and shall reproduce on copies of the BlueBox Server Software, Documentation and Confidential Information, without any amendments or changes thereto, any Philips' and its Affiliates copyright notices, proprietary information notices or confidentiality, restricted or proprietary rights notices, legends or marking contained in any of the BlueBox Server Software Tools, Documentation, and Confidential Information. Company shall affix to any media containing a copy or all or any portion of thereof all copyright notices, proprietary information notices and confidentiality and/or restricted rights notices as were affixed to the original media.

7.3 Right to use feedback
Philips and its Affiliates shall have the right to use any feedback provided by Company to Philips relating to the BlueBox Software and its related Documentation.

7.4 Ownership of content
Ownership of the content that is processed by the BlueBox Server Software Tools shall never transfer to Philips. Philips shall under no circumstance gain access to such content, nor shall Philips transfer any of such content via the Internet to Philips or any other third party. If the BlueBox needs to be sent back to Philips due to a service call or technical malfunction, any content stored locally on the BlueBox at that time will only be used for error investigation and bug analysis purposes. After assessment of the BlueBox failure, trained Philips support personnel will immediately thereafter delete all content locally stored on the BlueBox. .

8. **Fees**

8.1 Delivery and set-up fee.
In consideration of the delivery of the BlueBox by Philips, as well as of the license rights granted herein, Company shall pay Philips a non-refundable, non-recoupable one-time delivery and set-up fee as set forth in Appendix C. This one time delivery and set-up fee is due upon the execution of this Agreement.

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8.2 <u>Per-Frame Conversion Fees</u>
In consideration for the license rights granted pursuant to this Agreement and the loan of the Hardware, Company shall pay to Philips usage-based conversion fees ("Per-Frame Conversion Fees"). Per-Frame Conversion Fees accrue every time a video frame is processed by the BlueBox. Philips invoices the accrued amount of Per-Frame Conversion Fees on a monthly basis. The monthly Per-Frame Conversion Fees depend (a) on the BlueBox features during processing of the video frames and (b) on the accrued amount of video frame conversions processed by the BlueBox. The BlueBox Per-Frame Conversion Fees are specified in detail in <u>Exhibit C</u>. The accrued Per-Frame Conversion Fees shall be calculated separately and cumulatively for each different BlueBox Functionality used. After the end of each calendar month, Philips shall send to Company an invoice specifying the total fees due, which invoice shall be paid by Company to Philips ultimately within 30 (thirty) days after the date of invoice unless otherwise agreed between the Parties in writing.

Philips retains the right to update the fees specified in Exhibit C as may be necessary to reflect added BlueBox Functionalities or new versions of existing BlueBox Functionalities. In the event of price increases, these shall be applicable three months after the date of notification thereof to Company. Price decreases shall be applicable from the moment of notification to Company.

The Parties hereby explicitly agree that Philips may collect, use and record information about Company's usage of the BlueBox and the BlueBox Software through the connection with the WOWvx web server via the internet. Philips collects and analyses this information in order to generate the monthly invoice. Such usage data will be made anonymous and will be stored on a web server for a period of 12 months, treated in strict confidence and will not be published or provided to third parties in a manner that can identify customer.

8.3 <u>Other payments</u>
Company shall pay any other amounts due to Philips hereunder to Philips ultimately within 30 (thirty) days after the date of invoice unless otherwise agreed between the Parties in writing.

8.4 <u>Prices, bank account and no offset, withholding or reduction</u>
All amounts are in EURO. Company shall pay all amounts due hereunder by wire transfer into the bank account designated by Philips in writing. Company shall not offset, withhold or reduce any payment(s) due to Philips.

8.5 <u>Interest on late payments</u>
As from the date any amount is due hereunder until payment thereof has been received by Philips in full, Company shall owe Philips an interest at the rate of 1.5 (one and a half percent) per month or the maximum rate permitted by applicable law, whichever is lower.

8.6 <u>Costs, charges, taxes, duties, import and export fees</u>
All costs, charges, taxes, duties, import and export fees, which are imposed by any bank, governmental entity or authority on (payment of) the amounts due hereunder, or which otherwise arise out of or are imposed on this Agreement, shall be borne by Company. Company shall not withhold any such costs, charges, taxes, duties or fees from payments. If any such governmental authority, however, imposes income taxes on any amounts paid by Company to Philips hereunder and requires Company to withhold such taxes, duties or fees from such payments, Company may deduct such taxes, duties and fees from such payments provided such taxes, duties and fees are paid to the appropriate authorities. In such event, Company shall promptly furnish Philips with tax receipts issued by appropriate tax authorities so as to enable Philips to support a claim for credit against income taxes which may be payable by Philips and/or its Affiliates in the Netherlands as well as to enable Philips to document, if necessary, its compliance with tax obligations in any jurisdiction outside the Netherlands. In case, it is impossible for Philips to achieve a claim for credit or refund of the taxes paid or withhold, Philips is entitled to ask for compensation by the other contracting Party.

9.   Term and Termination.

9.1   Term

This Agreement shall commence on the Effective Date and, unless and until terminated in accordance with the provisions of Section 9.1, 9.2 or 9.3, shall continue in force for a period of one (1) year from the Effective Date. Thereafter, this Agreement will automatically renew for additional periods of one year each, unless earlier terminated, upon thirty (30) days prior written notice by the terminating Party to the other Party.

9.2   Termination by Philips. Without prejudice to any other rights or remedies Philips' has or may have hereunder and under the applicable law, Philips is entitled to terminate this Agreement with immediate effect by written notice to Company, if:

(a)   Company fails to make any payment under this Agreement to Philips when due; or

(b)   Company breaches or fails to perform any of the terms or conditions of this Agreement and:

    i.   such breach or failure is not capable of remedy; or

    ii.   such breach or failure, if capable of remedy, is not remedied within 30 (thirty) days after written notice from Philips requiring such breach or failure to be remedied; or

    iii.   Company has otherwise come in default;

    unless such breach or failure, having regard to its nature or minor importance, does not justify this termination with its consequences; or

(c)   a voluntary or involuntary petition in bankruptcy or winding up is filed against Company, any proceedings in insolvency or bankruptcy (including reorganization) are instituted against Company, a trustee or receiver is appointed over Company, or any assignment is made for the benefit of creditors of Company.

(d)   Company use of the BlueBox does not reach the minimum usage amounts as specified in Exhibit C as calculated over the preceding calendar quarter.

(e)   Philips notices that the BlueBox and/or the BlueBox client Software is used by Company to infringe IPR's relating to Content.

9.3   Termination by Company.

Without prejudice to any rights or remedies of Company, Company may, by written notice to Philips, terminate with immediate effect this Agreement, without any liability whatsoever, if:

(a)   Philips breaches or fails to perform any of the terms or conditions of this Agreement and:

    i.   such breach or failure is not capable of remedy; or

    ii.   such breach or failure, if capable of remedy, is not remedied within 30 (thirty) days after written notice from Company requiring such breach or failure to be remedied; or

    iii.   Philips has otherwise come in default;

    unless such breach or failure, having regard to its nature or minor importance, does not justify this termination with its consequences; or

(b)   a voluntary or involuntary petition in bankruptcy or winding up is filed against Philips, any proceedings in insolvency or bankruptcy (including reorganization) are instituted against Philips, a trustee or receiver is appointed over Philips, or any assignment is made for the benefit of creditors of Philips.

9.4   Consequences of termination or expiration

Upon termination or expiration of this Agreement, all licenses granted to Company under this Agreement shall immediately end, as well as all licenses to the BlueBox Client Software. All payments to be made by Company under the Agreement shall become immediately due and payable.

Company shall immediately return to Philips the BlueBox, the Documentation and other Confidential Information, including any and all copies and derivative works thereof, and remove from its work-stations any copy of the BlueBox Client Software.

9.5   No compensation

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Company shall not be entitled vis-à-vis Philips to any compensation based on the expiration or termination of this Agreement.

9.6   Survival

Any expiration or termination of this Agreement for whatsoever reason shall not prejudice the provisions which by their nature must be deemed to survive such expiration or termination, including but not limited to the provisions of sections 1.0 ('Definitions'), 4.0 ('Restrictions'), 7.0 ('Ownership Rights'), 8.0 ('Fees'), 9.0 ('Term and Termination'), 10.0 ('Confidentiality'), 11.0 ('Representations and Warranties'), 12.0 ('Indemnification'), 13.0 ('Limitation of Liability') and 14.0 ('Miscellaneous').

10.   Confidentiality.

Each Party agrees not to use any Confidential Information of the other Party for any purpose except to perform its obligations or exercise its rights under this Agreement. Each Party agrees not to disclose any Confidential Information of the other Party to third parties or to such party's employees, except to those employees or consultants of the receiving Party who are required to have the information with a need to know. Each Party agrees that it will take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information of the other Party. Without limiting the foregoing, each Party will take at least those measures that it takes to protect its own most highly confidential information and will ensure that its employees and independent contractors who have access to Confidential Information of the other Party have signed a non-use and non-disclosure agreement in content similar to the provisions hereof. Each Party will reproduce the other Party's proprietary rights notices on any such approved copies, in the same manner in which such notices were set forth in or on the original. Nothing in this Section 10.0 precludes either Party from disclosing the other Party's Confidential Information if required by law or legal process. Before making any disclosure as compelled by a court order, the Party being required to make the disclosure will immediately notify the other Party of the compelled disclosure and, wherever possible, give the other Party an opportunity to object to the disclosure and/or to seek and take reasonable protective (legal) measures and remedies to preserve confidentiality.

For the purpose of this Agreement, "Confidential Information" shall mean information not generally known to the public, whether of a technical, business or other nature that relates to this Agreement, which is marked or designated "confidential" or "proprietary" or other words of equal import, at the time of initial disclosure, or which, in good faith by its nature and the surrounding circumstances, ought to be treated as "confidential" and/or "proprietary". Confidential Information may be disclosed in written or other tangible form (including information in computer software or held in electronic storage media) or by oral, visual or other means. Confidential Information will not include any information which:

(a)   was publicly known and made generally available in the public domain prior to the time of disclosure by the disclosing Party;

(b)   becomes publicly known and made generally available after disclosure by the disclosing Party to the receiving Party through no action or inaction of the receiving Party;

(c)   is already in the possession of the receiving Party at the time of disclosure by the disclosing Party as shown by the receiving Party's files and records immediately prior to the time of disclosure;

(d)   is obtained by the receiving Party from a third party without a breach of such third party's obligations of confidentiality; or

(e)   is independently developed by the receiving Party without use of or reference to the disclosing Party's Confidential Information, as shown by documents and other competent evidence in the receiving Party's possession.

Confidential Information may include third party's confidential information. The BlueBox Server Software Tools, Documentation and any other information provided by Philips or any of its Affiliates to Company under this Agreement is hereby designated as Confidential Information of Philips.

11.   Representations and Warranties.
11.1   General

Each Party hereby represents and warrants that it has full power and authority to enter into and *perform* this Agreement, and that the person signing this Agreement on such Party's behalf has been duly authorized and empowered to enter into this Agreement.

11.2   Delivery and acceptance 'as is'
Except as expressly set forth under clauses 11.3 through 11.5, the BlueBox and the BlueBox Software and related Documentation are provided to, and is accepted by, Company AS IS WITHOUT WARRANTY OF ANY KIND.

11.3   Rights, power and authority to license
Philips hereby warrants to Company that Philips owns or has acquired all necessary rights, power and authority to grant the rights hereunder to Company under Clause 3 ('Access to the BlueBox'). This clause 11.3 will not be construed as a representation or warranty of non-infringement. Company's sole and exclusive remedy for breach of the warranty set forth in this clause 11.3 is as set forth in Section 12.0.

11.4   Conformity to Specifications
Philips hereby warrants to Company that for a period of 90 days after installation of the BlueBox at Company's premises, or 90 days after any new BlueBox Functionality has become available to Company, as the case may be, the BlueBox will substantially conform to the Specifications for the BlueBox set forth in the Documentation, and upon delivery to Company, the BlueBox Server Software will be free of any virus, hidden program or intentionally harmful destructive or disabling mechanism or device. Company's sole and exclusive remedy for breach of the warranty set forth in this clause 11.4 is as set forth in clause 11.5 below.

11.5   Defects
Philips hereby warrants to Company that for a period of 90 days after installation of the BlueBox at Company's premises, or 90 days after any new BlueBox Functionality has become available to Company, it shall make commercially reasonable efforts to correct, or provide a workaround for, any Defect which: (a) is reported to Philips by Company (b) is reproducible, and (c) for which Company provides all necessary documentation, information and assistance. If Philips determines that correcting or providing a workaround for a Defect is not practicable notwithstanding its commercially reasonable efforts, Philips will refund to Company the amounts received by Philips hereunder for the use of the defective BlueBox Functionality over the period that the BlueBox or such BlueBox Functionality has not been functioning substantially in accordance with its specifications. As used herein, a "Defect" means an operation problem solely within the affected BlueBox Functionality as delivered by Philips to Company that prevents it from functioning substantially in accordance with the specifications for such BlueBox Functionality as set forth in the Documentation. The term Defect does not apply to, and excludes: (i) any modifications made to the BlueBox; or (ii) any problems or effects created by any modifications to the BlueBox or combination of the BlueBox with other products.

11.6   Hardware Warranty
The BlueBox shall remain property of Philips. Philips warrants to Customer that, for the term of this Agreement, (a) the Hardware will be free of defects in materials and workmanship under proper use in line with the specifications, and (b) such Hardware will conform in all material respects with its specifications included in the Documentation. Philips does not warrant that Customer's use of the BlueBox will be uninterrupted or error free. Customer's sole and exclusive remedy and the entire liability of Philips under this Section 11.6 will be that Philips shall use commercially reasonable efforts to, at its option, 1) to provide a replacement BlueBox for the non-conforming BlueBox (or replacement parts for the non-conforming parts of the BlueBox, as the case may be) or 2) to repair any non-conforming (portion of the) BlueBox, whether by correcting or modifying (parts of) the BlueBox or identifying workarounds for such non-conformities, at no additional charge.

11.7   Disclaimer
EXCEPT FOR THE LIMITED WARRANTIES SET FORTH ABOVE UNDER CLAUSES 11.3 THROUGH 11.6 ABOVE, PHILIPS AND ITS AFFILIATES EXPRESSLY DISCLAIM ALL REPRESENTATIONS AND

WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

11.8   No representations or warranties by Company
Company, its Affiliates and their Customers shall not make or publish any representations, warranties, or guarantees on behalf of Philips and/or its Affiliates concerning, directly or indirectly, the BlueBox or BlueBox Server Software without Philips' specific prior written approval.

11.9   Special warranty by Company
Company represents and warrants a.) that it will only access the BlueBox by using the BlueBox Client Software, and b.) that it will use the BlueBox and the BlueBox Functionalities only for lawful purposes and in accordance with this Agreement, and that it will not use the BlueBox or the BlueBox Functionalities to violate any law, regulation or ordinance or any right of Philips or its licensors or any third party, including without limitation, any right of privacy, publicity, copyright, trademark, or patent.

12.   Indemnification.

12.1   Indemnification for Philips
Company shall indemnify, defend and hold harmless Philips and its Affiliates from and against any claims, suits, losses, damages, liabilities, costs, and expenses (including reasonable attorneys' fees) brought by third parties resulting from or relating to any breach by Company of its representations, warranties, obligations, duties, or responsibilities under this Agreement.

12.2   Indemnification for Company.
Philips, at its sole expense, shall defend any legal proceeding brought by a third party against Company to the extent that the proceeding includes a claim that the BlueBox Server Software directly infringes the claimant's copy rights or trade secrets and hold Company harmless against damages and costs awarded by final judgment in such proceeding and effectively incurred by Company to the extent directly and solely attributable to such infringement.

12.3   No indemnification for Company
Philips shall have no obligation or liability to Company under clause 12.2:
(a)   if Philips is not promptly: (i) notified in writing of any such claim; (ii) given the sole right and authority to control and direct the investigation, preparation, defence and settlement of such claim, including but not limited to the selection of counsel; and (iii) given full reasonable assistance and cooperation by Company in such defense and settlement; or
(b)   if the claim is not made within the term for claims specified in clause 13.3 of this Agreement and/or after the termination or expiration date of this Agreement; or
(c)   for unauthorized use or distribution of the BlueBox or the BlueBox Server Software or use beyond the Authorised Purpose; or
(d)   for infringement of any third party's Intellectual Property Rights with respect to which Philips has informed Company that a separate license has to be obtained.

12.4   Right of Philips
If the BlueBox Software is, or in Philips' opinion is likely to become, the subject of a claim of infringement as referred to under clause 12.2 above, Philips shall have the right, without obligation and at its sole discretion, to: (i) procure for Company the right to continue to use the BlueBox Software; (ii) replace or modify the BlueBox Software in such a way as to make the modified BlueBox Software non-infringing; or (iii) terminate this Agreement, provided that in the event of such termination, Philips shall refund the amounts received by Philips hereunder during the period in which Company has not been able to use the BlueBox but has nevertheless paid to Philips any amounts for the use thereof.

12.5   Entire liability

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Initials Company:

Subject to the limitations set forth in Section 13.0 below, the foregoing states Philips' and its Affiliates' entire liability and obligation to Company and its customers and Company's sole remedy with respect to any actual or alleged infringement of any Intellectual Property Rights of any kind.

13.   **Limitation of Liability.**

13.1   EXCLUSION
COMPANY ACKNOWLEDGES AND AGREES THAT NEITHER PHILIPS NOR ITS AFFILIATES SHALL BE LIABLE FOR ANY TYPE OF INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES OR LOSS, HOWSOEVER CAUSED OR ARISING, ON ANY THEORY OF LIABILITY, INCLUDING BUT NOT LIMITED TO ANY RECALL COSTS, LOST PROFITS, LOST INCOME AND/OR REVENUE, LOSS OF OPPORTUNITY, LOST PRODUCTION, LOSS OF - OR DAMAGE TO - GOODWILL AND REPUTATION, LOST SHELF-SPACE, LOST DATA, LOST INTEREST AND LOST SAVINGS. THIS LIMITATION SHALL APPLY EVEN IF PHILIPS HAS BEEN ADVISED, OR IS AWARE, OF THE POSSIBILITY OF SUCH DAMAGES OR LOSS.

13.2   LIMITATION
THE AGGREGATE LIABILITY OF PHILIPS AND ITS AFFILIATES SHALL IN NO EVENT EXCEED THE AMOUNT ACTUALLY RECEIVED BY PHILIPS IN CONVERION FEES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO ANY SUCH LIABILITY. COMPANY ACKNOWLEDGES THAT THE AMOUNTS TO BE PAID BY COMPANY HEREUNDER REFLECT THIS ALLOCATION OF RISK.

13.3   TERM FOR CLAIMS
ANY CLAIM FOR DAMAGES AGAINST PHILIPS MUST BE BROUGHT BY COMPANY WITHIN 90 (NINETY) DAYS OF THE DATE OF THE EVENT GIVING RISE TO ANY SUCH CLAIM, AND ANY LAWSUIT RELATIVE TO ANY SUCH CLAIM MUST BE FILED WITHIN 1 (ONE) YEAR OF THE DATE OF THE CLAIM.

14.   **Miscellaneous.**

14.1   Assignment
Company shall not assign its rights or obligations under this Agreement without the prior written consent of Philips, which consent shall not be unreasonably withheld by Philips. Any purported assignment without such consent shall be void and have no force or effect. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the respective Parties hereto and their successors and assigns. Without limiting the generality of the foregoing, a Change of Control over Company shall be deemed an assignment of the Agreement by Company for the purpose of this clause 14.1. In the event of any assignment or attempted assignment by Company without the prior written consent of Philips, Philips may terminate this Agreement by written notice to Company with immediate effect and the BlueBox, including BlueBox Server Software, all Documentation, Confidential Information and related materials shall be returned to Philips within 10 (ten) days after such notification.

14.2   Relationship
The Parties hereto are independent contractors with neither Party having authority to act as an agent or legal representative of the other to create any obligation, express or implied, on behalf of the other. No principal/agent, joint venture or partnership relationship is created between them by this Agreement.

14.3   Compliance with laws
Each Party shall comply with all applicable laws, including, but not limited to export or import controls or restrictions of other applicable jurisdictions in its use of the BlueBox under this Agreement. .

14.4   Injunctive relief
Company acknowledges that a breach of its obligations under this Agreement may cause irreparable damage for which recovery of money damages would be inadequate, and that, in addition to any and all

remedies available at law. Philips shall be entitled to seek injunctive relief to protect its rights and interest under this Agreement.

14.5   **No trademark license**
Company hereby acknowledges and agrees that this Agreement does not confer any rights whatsoever to Company to use the trade or brand name, corporate name, trademarks and logos – or any other name or mark, or contraction abbreviation or simulation thereof – of Philips or its Affiliates, for any reason.

14.6   **Use of Company's name**
Company hereby acknowledges and agrees that during the Term of this Agreement, Philips shall be entitled: (i) to use Company's name and Company's logo(s), and (ii) disclose that Company is a Philips' customer, in Philips' press releases, advertising, promotion and other public disclosures in connection with Philips' products and services, provided, however, that - without Company's express prior written permission to that effect - such use and/or disclosure shall not indicate that Company in any way endorses any Philips' products or services.

14.7   **No waiver**
The failure on the part of either Party to exercise, or any delay in exercising, any right or remedy arising from this Agreement shall not operate as a waiver thereof; nor shall any single or partial exercise of any right or remedy arising there from preclude any other or future exercise thereof or the exercise of any other right or remedy arising from this Agreement or by law.

14.8   **Headings**
The headings and captions to sections, clauses, sub clauses and Appendices of this Agreement are for reference only and shall not affect the construction or interpretation of this Agreement.

14.9   **Governing law**
This Agreement shall be governed by and construed in accordance with the laws of the Netherlands, without regard to provisions concerning conflicts of law. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

14.10   **Dispute resolution**
Any dispute or controversy arising between the Parties out of or in connection with this Agreement, whether during or after its term, shall be finally resolved by the court in Amsterdam, the Netherlands, except that Philips, in its sole discretion, may also elect to bring legal action regarding any dispute or controversy relating to Company's non, or late, payment of any amounts payable to Philips hereunder or enforcement of any of its IPR, before the competent courts in the country in which Company is registered, to whose jurisdiction in these matters Company hereby submits and consents to, for the exclusive benefit of Philips.

14.11   **Communications**
All notices or communications to be given under this Agreement shall be in writing and shall be deemed to be validly given by delivery thereof to its recipient, if (i) delivered upon hand delivery; or (ii) by deposit in the mail of the home country of the Party, postage prepaid, by certified, registered or first class mail or equivalent; or (iii) by nationally recognized overnight courier service (e.g. FedEx, UPS, DHL) prepaid, all of which are addressed to the Parties at their address first written above or such other address that a Party may notify the other Party from time to time, in accordance with this clause [14.11]. Any written notice is deemed to have been received, if sent by hand delivery, certified or registered, first class (or equivalent) mail or prepaid overnight courier, at the time of its delivery.

14.12   **Publicity**
Neither Party shall publicize or disclose the actual terms of this Agreement to any third Party, other than on a confidential basis to its legal and financial advisors, without the prior written consent of the other, except as otherwise may be required by law.

FROM : Blumenthal   Case 23-10763-amc   Doc 840-12   PHONE No. : 1-607 5849245   Entered 12/02/24 13:09:09   Feb. 16 2009 02:45PM P14   Desc

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14.13 Severability

In the event that any provision(s) of this Agreement shall be, or shall be held, void or unenforceable by a court of competent jurisdiction or by any future legislative or administrative action, the other provisions shall remain in full force and effect and enforceable. In such event the Parties hereto shall forthwith discuss and reasonably agree on a new provision replacing such void or unenforceable provision which gets as close as possible in terms of economic and legal effect to the void or unenforceable provision.

14.14 Execution

This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

14.15 Amendments

The terms and conditions of this Agreement may not be modified or amended except by written agreement which states that it is such a modification or amendment hereof, and is signed by an authorized representative of each Party hereto.

14.16 Entire understanding

This Agreement, including its Appendices and the documents referred to herein, constitutes the entire agreement between the Parties with respect to such subject matter. The Parties hereby agree that the provisions of sections 1.0 through 14.0 of this Agreement shall prevail over any conflicting provisions of the Appendices.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their duly authorized officers as of the Effective Date.
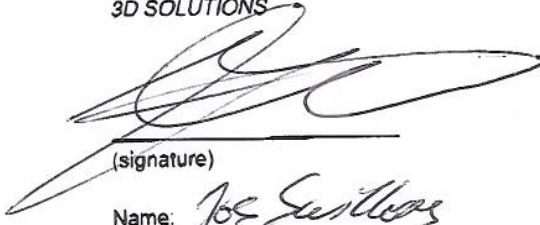
3D FUSION CORP.

[INSERT NAME Company]

(signature)   (signature)

Name: STEPHEN BLUMENTHAL   Name:
Title: PRESIDENT   Title:

Philips ELECTRONICS NEDERLAND B.V.
3D SOLUTIONS

(signature)   (signature)

Name: Jos Suellos   Name:
Title : CEO 3D SOLUTIONS   Title :

Exhibit A
Specification of the Blue Box

The BlueBox consists of the following:
The BlueBox is a combination of hardware and software, consisting of the following components:.

Hardware components:
- customized hardware cabinet in 19-inch technology
- uninterruptible power supply unit (UPS) for controlled shut-down procedures
- network switch
- computer

Software Components:
- BlueBox Server Software

The BlueBox, together with the BlueBox Client Software, supports the BlueBox Functionalities listed in Exhibit B.

Functional Requirements:
The BlueBox is operated in an indoor office environment.

The BlueBox is connected to the network (LAN) of the customer. The customer accesses the BlueBox via the BlueBox software tools installed on the customers own client workstations. The BlueBox requires a permanent Internet connection in order to be operational. For operation of the BlueBox, the customer starts the software tools on the client workstation and uses the graphical user interface of the BlueBox Client Software. Any operation with the BlueBox is always done via this software, which communicates with the BlueBox. The user cannot directly log in to the BlueBox.

The BlueBox Client Software operates on Microsoft Windows XP SP2 or Microsoft Vista based workstations. Other operating systems are not supported. The minimum requirements for the workstation are: WOWvx compatible graphics card (for 3D preview), 1GB of memory, 100GB of disk space (plus sufficient space for the content and temporary files), LAN connection to the BlueBox and the internet.

Connectivity Requirements:

Proper operation of the BlueBox requires the following connectivity requirements:
- Internal network (LAN) with minimum 100MBit/s and DHCP server
- Broadband Internet access
- Default access to Internet via https (with or without proxy server); BlueBox must be able to access HTTP servers on the Internet

BlueBox Configurator:

Description:
- BlueBox software configuration tool for administrating all BlueBoxes in the customer's local network (LAN).
- Pure administration tool, not used for 3D content conversion

Functionalities:
- Selecting an available BlueBox in the network at start-up time.
- Providing status information about the BlueBox such as network information, BlueBox version information, actual connection status information, and BlueBox name
- Administrating the available BlueBoxes
- Checking for updates of the BlueBox software via the WOWvx web server on the Internet. Customer can choose and install available update.

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Intended purpose:

- Administration interface on client workstation
- Selecting dedicated BlueBox on the network
- Updating the BlueBox
- Checking status information of the BlueBox
- Setting of the proxy server to use (if any).

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Exhibit B
Specification of the available BlueBox Functionality

This Exhibit B lists the BlueBox Functionalities available to Company. Philips may update this Exhibit B from time to time in accordance with Clause 3 of the Agreement.

WOWvx Spacer

Description:
- WOWvx Spacer enables offline conversion of 2D and/or Stereo video input content into 2D-plus-Depth output. When starting a new work project, the user can choose between stereo and non-stereo input formats. The WOWvx Spacer client front-end runs on the client's workstation with a graphical user interface and the WOWvx Spacer client software communicates with the BlueBox server for processing of the 2D-plus-Depth results.

1. Mode 1: WOWvx Spacer processes 2D input video source files into 2D-plus-Depth output in a semi-automated workflow
   WOWvx Spacer enables semi-automatic conversion of existing 2D video source content into 2D-plus-Depth compliant 3D video format. Conversion of 2D content is based on manually adding depth with a standard image editor to objects or areas in key frames, along with subsequent automatic processing of depth information in all other frames. Typically this workflow is repeated for each shot of the source video sequence.
2. Mode 2: WOWvx Spacer processes stereo-based video source files into 2D-plus-Depth output in a semi-automated workflow
   - Processes Depth from Stereo
   - Reads stereo files in left/right side by side format
   - Reads stereo from two separate files
   - Allows parameterization (disparity to depth mapping) of shot and/or whole video
   - Allows manual improvement of depth computed from stereo per shot by improving depth maps through Mode 1.
   - Stereo matching algorithm implemented on BlueBox

Functionalities:
- Selecting an available active BlueBox in the local network at start-up time.
- Semi-automatic offline conversion of input 2D videos into 2D-plus-Depth 3D format
- Semi-automatic offline conversion of input Stereo videos into 2D-plus-Depth 3D format
- Automatic software update of the WOWvx Spacer via the WOWvx web server on the Internet

Intended purpose:
- Generating WOWvx 2D-plus-Depth videos from 2D or Stereo source video content. The resulting WOWvx 2D-plus-Depth video file can be shown on a WOWvx 3D display.

Current version:
- WOWvx Spacer 2.4

Exhibit B
Specification of the available BlueBox Functionalities

WOWvx Compositor

Description:
- The WOWvx Compositor is a tool enabling depth compositing of various video input sources, assisting the user in the generation of 3D videos in WOWvx 2D-plus-Depth format. It comes with an easy-to-use graphical user interface. WOWvx Compositor is complementary to existing video-editing software as it allows the composition of a diversity of video input files in separated depth layers. WOWvx Compositor can handle video input sources of different nature, e.g. 2D data without any depth information, 3D animated computer graphics input videos or existing 2D-plus-Deopth videos. Each input video file is added as a separate layer into WOWvx Compositor. WOWvx Compositor allows placing each layer into a different depth value. WOWvx Compositor combines all layers into a 3D video composition and generates WOWvx 2D-plus-Depth format. which can be shown on WOWvx 3D displays.

Functionalities:
- Selecting an available active BlueBox in the local network at start-up time.
- Adding video input files (2D or stereo input files. WOWvx 2D-plus-Depth video files) as separate depth layers
- Depth compositing per layer with depth adjustment per layer
- Link to WOWvx Spacer, i.e. possibility of adding depth to 2D content by WOWvx Spacer process them with WOWvx Spacer and immediately make the result available in a Compositor project
- Selecting existing audio channels per layer
- Automatic generation of Declipse output
- Generating 3D output video file in WOWvx 2D-plus-Depth format

Intended purpose:
- Multi-layer depth compositing of multiple video input files of different nature (2D or stereo input files. WOWvx 2D-plus-Depth video files). Generating WOWvx 2D-plus-Depth video file including Declipse generation from multiple video input source files with dedicated depth values for each layer per video input file. The resulting WOWvx 2D-plus-Depth video file can be shown on a WOWvx 3D display.

Current version:
- WOWvx Compositor 2.4

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Exhibit C
Fees

A.)   Delivery and Set-up Fee:
The initial delivery and set-up fee of € 12,000 will not be charged as it has already been paid by 3D Fusion in the previous rental period of the BlueBox.

B.) Minimum monthly Fee:
- Monthly fee will be based on usage and conversion rate as defined above. However a minimum fee of €2,500 will be charged on a monthly basis.
- This minimum monthly fee covers BlueBox conversion usage up to 10,000 CU (Conversion Units) in each month.
- Any additional CUs exceeding the threshold of 10,000 CU in the respective month are charged based on the conversion rate as defined in D.).
- The monthly recurring 10,000 CU credit cannot be accumulated over multiple months and expires by the end of each month.

C.)   Per-Frame Conversion Fees:
There is a usage fee every time a video frame is processed or re-processed by the BlueBox, per functionality.

The following fees apply:
- Usage tickers count each time a frame is processed by the BlueBox. BlueBox pricing takes into account that individual frames are typically processed multiple times (3x-5x). The term CU means "Conversion Units".
  - Compositing   0 CU per frame processed (free usage)
  - Single-pass 2D to 3D 1 CU per frame processed
  - Two-pass 2D to 3D   2 CU per frame processed (high quality spacing option)
  - Stereo to 3D   3 CU per frame processed

- Conversion Units consumed within current month are invoiced at beginning of next month
  - Invoice amount: Number of consumed Conversion Units multiplied by current monthly Conversion Rate
  - New month starts on the first day of the month at 0:00 UTC
  - Conversion rate as function of usage is in the attached table

D.)   Conversion rate:
- The price point per CU is 0.25 €

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Exhibit D
Maintenance and Support Agreement

Helpdesk
Philips shall make available a service helpdesk as the single contact point for all technical questions and (reproducible) errors. The helpdesk shall support Company in installing and configuring the BlueBox and in all technical issues regarding the hardware and software contained in the BlueBox.

The helpdesk can be contacted by email at 3dservice@philips.com and is available during office hours on normal business days in The Netherlands.

Technical Support
In the event the BlueBox does not operate as specified in the accompanying documentation, the customer may report this to the 3D Solutions helpdesk. In case of operational or usage problems, the client must undertake his best efforts to exclude any problems, which are not caused by the BlueBox operation. Any problem-report must contain all relevant details and a comprehensive and clear description of the problem leading to a reproducible (hardware or software) malfunction of the BlueBox.

Philips undertakes to return to company an initial reply acknowledging receipt of the error within one business day and subsequently start the investigation. After investigating the error Philips shall, depending on the severity of the problem:
- Swap the BlueBox;
- Exchange the faulty hardware components of the BlueBox;
- Reinstall the software and restore the original state of the BlueBox;
- Provide a bugfix in form of a software update; or
- Provide workarounds;

Philips will seek a speedy resolution of the malfunction, but cannot guarantee any maximum repair times. If the investigation of the problem by Philips shows that the malfunction or error is not due to a fault of Philips or of the workmanship of the BlueBox, then the request is rejected. In such event, Philips and Company shall discuss other possible causes of the problem.

Repairing activities may require the BlueBox be shipped back to Philips. In such an event, Philips will provide a replacement system to the customer.

Software updates
Philips may from time to time provide software updates, including bug-fixes for reported errors and enhancements of the software. Software updates may include updates for the WOWvx Spacer, the BlueBox Configurator and the BlueBox. Updates are provided online at the WOWvx web server or via other means. Company will receive a notification (either through the BlueBox user interface or by e-mail) in case any updates have been made available. Company shall ensure any available updates provided by Philips are installed on the BlueBox for assuring proper operation of the system.

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